

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





75-1262

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Appellee,

-against-

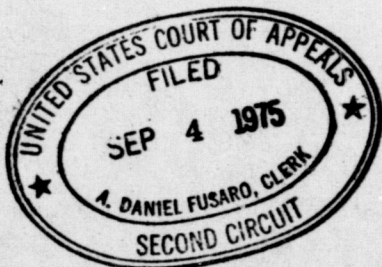
TOMMIE LEWIS BELL,

Appellant.

Docket No. 75-1262

APPENDIX

ON APPEAL FROM A JUDGMENT  
OF THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK



WILLIAM J. GALLAGHER, ESQ.,  
THE LEGAL AID SOCIETY,  
Attorney for Appellant  
TOMMIE LEWIS BELL  
FEDERAL DEFENDER SERVICES UNIT  
509 United States Court House  
Foley Square  
New York, New York 10007  
(212) 732-2971

JONATHAN J. SILBERMANN,  
Of Counsel.

PAGINATION AS IN ORIGINAL COPY



## TITLE OF CASE

## ATTORNEYS

THE UNITED STATES

For U. S.:

vs.

DAVID M. BRODSKY, AUSA

SANFORD WATTS-Both cts.

TOMMIE LEWIS BELL-Ct. 1 only

For Defendant:

## STATISTICAL RECORD

## COSTS

## DATE

NAME OR  
RECEIPT NO.

## REC.

## DISB.

J.S. 2 mailed ✓

Clerk

J.S. 3 mailed ✓

Marshal

~~XXXXXX~~ Comp. #71-1272

Docket fee

Title 18

Sec. 495 &amp; 2

Forging(ct.1) & uttering  
(ct.2) US Treasury check.

## TWO COUNTS

## DATE

## PROCEEDINGS

5-11-71 Filed Indictment.

5-12-71 SANFORD WATTS-Robert Mitchell, Esq. assigned as atty purs. to CJA by  
Commr. Deft's atty presently on trial. Court directs entry of not  
guilty plea. Deft. remanded in lieu of bail fixed at \$2,500. Motions  
ret. in 10 days. McGOHEY, J.

6-3-71 T.L. BELL; bench warrant issued. Bail fixed at \$1,000.00 cash  
S. Watts: set down for trial, Tuesday, June 15, 1971, 10a.m. in Rm. 318.

RYAN, J.

6-3-71 TOMMIE LEWIS BELL- Bench warrant ordered issued. (RYAN, J.)

~~6-15-71 XXXXXXXXXXXXXXXXXXXX~~

6-15-71 Deft. Watts waives reading and pleads Not Guilty to both cts. Trial set for  
6-22-71 at 10:00 A.M.- Bail cont'd. Remanded in lieu of bail. RYAN, J.

6-21-71 WATTS- trial begun before Ryan, J. (JURY) Deft's motion to dismiss  
is denied.

6-23-71 Trial cont'd and concluded.

DATE	PROCEEDINGS
6-24-71	Jury verdict deft Not Guilty (SANFORD WATTS) on each of cts. 1 & 2. Deft. discharged. RYAN, J.
7-7-71	Filed discharge dated 6-24-71
7-7-71	Filed remand dated 5-12-71
7-26-71.	Tommie L. Bell- At 2:30 P.M. in chambers. Deft. brought to Court on warrant after surrendering to Federal Agents. Robert Kasanof assigned as attorney under CJA by Magistrate, Jack Lipson of counsel. Pleading adjourned to 7/28/71. Deft. released on bail of \$500. P.R.B. secured by \$50. cash posted before Magistrate. Discharged from custody of U.S. Marshal. Bail limited to the borough of Manhattan and Bronx. FRANKEL, J.
7-28-71.	Filed copy of deft's acknowledgment of his constitutional rights.
7-28-71	XX Tommie Lewis Bell= PLEADS GUILTY(atty. present) Pre-sentence investigation ordered. Sentence adjourned 9/8/71 at 10:00 A.M. before Frankel, J. with Judge Ryan's consent. Bail continued (\$500. P.R.B.) secured by 10% cash. FRANKEL, J.
8-3-71	<del>Deft</del> Commitment & return of body. Delivered to the (TOMMIE LEWIS BELL) 7-26-71.
	XX Error
9-8-71	BELL- fails to appear for sentencing. Bench warrant ordered issued. FRANKEL, J.
9-15-71	TOMMIE LEWIS BELL-Deft appears in ct. voluntarily B/W vacated. Frankel, J.
9-15-71	TOMMIE LEWIS BELL-Filed Judgment(atty present)It is adjudged that the imposition of sentence is suspended. Deft is placed on probation for a period of THREE(3)YEARS, subject to the standing probation order of this Court. Special condition of probation being that the deft contribute a minimum of \$50. a week for the support of his children and it being understood that the deft may apply through the Probation Officer for assistance in implementing that requirement and for modification of this special condition. In the event a violation of probation is charged, the matter is to be referred to Judge Frankel. FRANKEL, J.
9-8-71	TOMMIE LEWIS BELL- bench warrant issued.
10-18-71	T. BELL- filed CJA form L voucher for compensation(m/n) FRANKEL, J.
11-29-71	SANFORD WATTS- filed CJA form L voucher for compensation(m/n) RYAN, J.
6-11-73	TOMMIE LEWIS BELL-Filed memorandum of Legal Aid in support of his request to the Court to allow him to remain on probation
5-11-73	Bell- Filed probation Form #12 - Order for the issuance of a Bench Warrent - Frankel, J.



DATE	PROCEEDINGS
5-31-73	Bell- (Atty. present) Defendant admits to specifications 2 and 3. P.S.I. ordered. Sentence set for June 15, 1973 at 4:30 P.M. Deft. R.O.R. -- Frankel, J.
6-15-73	TOMMIE LEWIS BELL - Filed Judgment...Probation dated Sept.15,1971 is revoked...It is Adjudged that the imposition of sentence is suspended. Deft is placed on probation for a period of TWO YEARS from this date, subject to the standing probation order of this Court.....Frankel, J.....Entered 6-21-73-----
7-3-73	THOMAS LEWIS BELL. Filed a Warrant for Arrest of Probationer dated May 11, 1973.
6-10-75	Filed probation form No 12 and order for the issuance of a bench warrant...Frankel,J.
6-18-75	T.BELL - Deft and atty J.Curley,present...Denies all specifications. Hearing held and concluded...Deft g found Guilty as to Specs.1,2 and 3..Spec.4 & 6 withdrawn by Court...Sent.6-30-75 Deft R.O.R.....Frankel,J.
6-30-75	TOMMIE LEWIS BELL-Filed JUDGMENT & COMMITMENT (atty present) Probation dated 6-15-73, is revoked. The deft. is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of ONE (1) YEAR. ....Frankel,J.. Issued commitment 7-3-75.
7-2-75	TOMMIE LEWIS BELL-Filed deft's. notice of appeal from the order of 6-30-75. Mailed copies to Tommie Bell, 427 West,St.,N.Y.C.10014 and U.S. Attorney's Office.
7-3-75	TOMMIE BELL-Filed CJA Form 23 - deft's. financial affidavit.
7-29-75	T.BELL - Filed memo endorsed***Letter of 7-16-75 is being treated as motion for reduction of sentence...I must and do deny the motion...Frankel,J...deft notified.
7-30-75	<del>File</del> Transcribed record of proceedings, dated: JUNE 17, 18 & 30 - 75
8-1-75	TOMMIE BELL - Filed the following papers received from Mag.Raby: Docket entry sheet Disposition sheet Appointment of Counsel Final Commitment, Warrant of Arrest of Probationer.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JUDGE RYAN

UNITED STATES OF AMERICA,

71 CRIM. 497

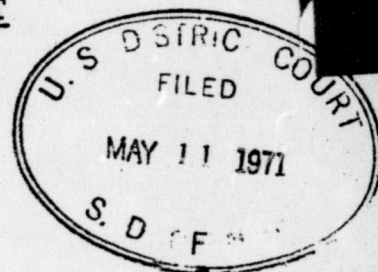
-v-

SANFORD WATTS and  
TOMMIE LEWIS BELL,

Defendants.

INDICTMENT

71 Cr.



The Grand Jury charges:

On or about the 3rd day of May, 1971 in the Southern District of New York, SANFORD WATTS and TOMMIE LEWIS BELL, the defendants, unlawfully, wilfully and knowingly falsely made, forged and counterfeited a writing, namely, the endorsement of the payee on a check, to wit, the words Angle Monaco, 606 8 Av., New York, on the back thereof, for the purpose of obtaining from the United States and its officers and agents a sum of money, the check being a genuine obligation of the United States, and of the following tenor:



# IDENTIFICATION PROCEDURE

When cashing this check for the individual payee, you should require full identification and endorsement in your presence, as claims against endorsers may otherwise result.

The payee should endorse below in ink or indelible pencil.

If the endorsement is made by mark (X), it must be witnessed by two persons who can write, giving their places of residence in full.

It is suggested that this check be promptly negotiated.

*Angel Monaco*  
*606 8th Ave. New York*



BUY and HOLD  
 U.S. SAVINGS BONDS  
*Safe as America*

DO NOT FOLD, SPINDLE OR MUTILATE  
 KNOW YOUR ENDORSEMENT REQUIRE IDENTIFICATION

BUREAU OF  
 ACCOUNTS  
 DIVISION OF  
 DISBURSEMENT



PHILADELPHIA, PENNSYLVANIA

CHECK NO. 1-51

SYMBOL 3039

Treasury of the United States

PAY TO THE

ORDER OF

ANGEL MONACO

MONTH	DAY	YEAR
04	30	71

606 8TH AVE

12/70

NEW YORK N Y 10000

DOLLARS	CTS.
5000112	00

/R/ TAX REF

113202806 ANDOVER 13

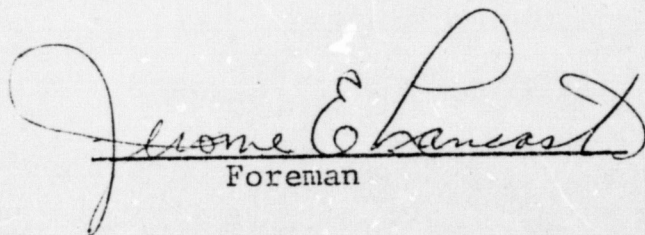
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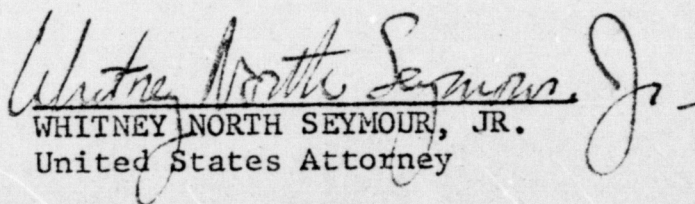
SECOND COUNT

The Grand Jury further charges:

On or about the 3rd day of May, 1971, in the Southern District of New York, SANFORD WATTS, the defendant, unlawfully, wilfully and knowingly and with intent to defraud the United States, uttered and published as true and caused to be uttered and published as true, a false, forged and counterfeited writing, namely, the endorsement of the payee on a check knowing the same to be false, forged and counterfeited, the check being that described in the first count of this indictment.

(Title 18, United States Code, Section 495.)

  
Foreman

  
WHITNEY NORTH SEYMOUR, JR.  
United States Attorney



JUN 15 1973

11054 EATON  
(atty. pres)

Left BELL, admits to the 2<sup>nd</sup> & 3<sup>rd</sup> specifications. Prior term of probation revoked. I.S.S. has placed on probation for a period of two (2) years from to-day, subject to the standing probation rules of this Court.

Franklin J.

Bell

**United States District Court**  
**SOUTHERN DISTRICT OF NEW YORK**  
**THE UNITED STATES OF AMERICA**

vs.  
SANFORD WATTS and  
TOMMIE LEWIS BELL,

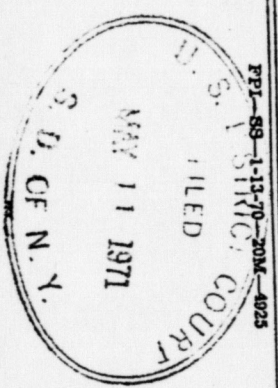
Defendants.

**INDICTMENT**

In violation of  
Title 18, United States Code,  
Sections 495 and 2.

WHITNEY NORTH SEYMOUR, JR.  
United States Attorney.  
A TRUE BILL

*Thomas E. Seymour, Jr.*  
Foreman.



Sanford Watts - Asst. MITCHELL

assigned as attorney pursuant to C.J.A. By Com.  
DEFTS are presently on TRIAL.  
Court directs entry of plea of  
GUILTY. REMANDED IN LIEU OF BAIL PENDING  
MOTIONS RET. in 10 days. Mr. Co

JUN 3 1971

Left. (Bell) B/w issued, bailable of \$1,000  
Left. (Watts) set down for trial, Tues. 6-15-71, 10  
am. 318.

JUN 15 1971

Left. (Watts) names reading + pleads not guilty to  
both etc. Trial set for 6-22-71 - 10 am - Bail  
contd. Remanded in lieu of bail. *Refer*

JUN 21 1971 - Watts before. *Refer*  
Govt. wants - *Refer* trial begun (jury)  
adj. to 6-23-71. *Refer*

JUN 23 1971 - trial contd. + concluded - jury deliberates  
JUN 24 1971 - Verdict of not guilty on each of 10.  
jury polled - deft. discharged

*Hyman*



Tommy Lewis Bell - Ct. to Court on warrant  
after surrendering to Federal Agents

ROST. KASANOF  
MAYOR'S OFFICE, ESQ.

ASSIGNED AS ATTORNEY UNDER C.J.A. by Magistrate  
Joel Lepson OF COUNSEL

Pleading adjd to 7/28/71

Def released on bail of \$500 P.R.B. secured by  
\$50 cash posted before Magistrate

Discharged from custody of U.S. Marshal

Bail limited to Boroughs of Manhattan & Bronx  
Frankel, J.

JUL 28 1971 Tommy Lewis Bell

PLEADS GUILTY (Atty present) Pre-sentence  
investigation ordered. Sentence. adjd. 9/8/71 at 10 AM. before Frankel  
~~Def. recommended. Released on own recognizance~~  
Bail continued (\$500 P.R.B. for 10% cash.)

with Judge Ryan's c

Frankel, J.

SEP 8 1971

DEFENDANT

Robert P. Walton 144.54.  
Tommy Lewis Bell failed to appear for  
sentencing. Bench warrant. Discontinued

(20)

Frankel, J.

SEP 15 1971

Tommy Lewis Bell (Arthur Huff - of  
Council present) 255. probation 3 yrs.  
Special condition of probation. <sup>give</sup> Supply a  
minimum of \$50. a week for the support.

that he may apply through Probation Officer for  
assistance in implementing that requirement and  
for modification of this Condition. Any violation  
of probation to be referred to Judge Frankel  
B/w Vacated Referred to Judge Frankel - J



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4 MR. BELLER: We will withdraw the first portion  
5 dealing with the forged instrument. Mr. Tyne informs me that  
6 he may have been informed about that forgery arrest which  
7 occurred in July -- he was informed about it in September  
8 when he made a home visit. The assault in the third degree  
9 arrest is the March 7 charge and the evidence--

10 THE COURT: March 7, 1974?

11 MR. BELLER: 1975. That is the assault by Mr.  
12 Bell which Carrie Middleton reported to the police.

13 THE COURT: Was there an arrest?

14 MR. BELLER: Mr. Tyne checked yesterday with the  
15 police authorities and he was informed that a summons was  
16 issued to Mr. Bell on which the charge was stated. This was  
17 just a summons.

18 THE COURT: That is not an arrest. I think we  
19 ought to dismiss the 5th specification.

20 I also think, gentlemen, that it is not profitable  
21 to extend this hearing very much because I am perfectly clear,  
22 since that is all the evidence that will be offered by either  
23 side, that I will find by a fully persuasive preponderance  
24 that Mr. Bell is guilty as charged on the first three speci-  
25 fications. I understand the situation out of which these

2 arise and we are neither a domestic relations court nor a  
3 local criminal court, so that normally these matters,  
4 though upsetting and difficult, they would not concern us,  
5 but what Mr. Bell has I am afraid, tended to forget is that  
6 he is on a sentence of probation out of this court and  
7 that there are restrictions on his conduct that may be in some  
8 respects more onerous than those that apply to other people,  
9 and whatever the provocation he does not have quite the  
10 freedom somebody else might have to be striking a woman  
11 with or without a piece of wood or not knowing for sure whether  
12 he knocked her down or not quite without regard to what the  
13 exact discrepancies may be and that these kinds of alter-  
14 cations as charged in this petition will require me to  
15 revoke his probation. This will be the second time  
16 I have had to do that in Mr. Bell's case and I don't see  
17 any use in the circumstances what we have heard of having  
18 the probation officer or anybody else take the stand and go  
19 into the intricacies of specifications 4 and 6. I don't  
20 think it is going to profit the Court or Mr. Bell or Mr.  
21 Tyne to explore what alleged understandings may or may not  
22 have been had with Miss Hermann or Mr. Tyne or what the  
23 two reasons may be why he, unlike other people who make  
24 it on probation, has not been able successfully to negotiate  
25 the distance between wherever he is and the probation office,



2 wherever that is.

3 I think, in short, that I have heard enough to  
4 warrant an require the revocation of Mr. Bell's probation  
5 and I prepared to order that unless Mr. Curley or  
6 somebody knows why we should prolong this proceeding or  
7 hear any further things on that subject.

8 MR.BELLER: We would withdraw specifications  
9 4, 5 and 6 at this point.

10 THE COURT: 5 you cannot withdraw because I  
11 dismissed that, but I will allow you to withdraw 4 and 6.

12 MR. BELLER: Thank you.

13 THE COURT: Mr. Curley, what is your view about  
14 all this?

15 MR.CURLEY: Well, I find I cannot disagree with  
16 the factfinding, but its conclusion -- I don't know whether  
17 the Court would like to hear me on that.

18 THE COURT: I am always happy to hear you,  
19 Mr. Curley and I'm happy to contemplate the possibility  
20 that you again as you have in the past may cause me to change  
21 my mind, but I think it is a forlorn enterprise for you  
22 if you took nothing except specification 3 and Mr. Bell's own  
23 testimony about the stormy course of that relationship.  
24 You have a picture, quite apart from what Carrie Middleton  
25 tells us, of somebody whose probation I probably should not

1 have ordered in the first place and whose probation I  
2 should have extended in the second place when he once violated  
3 it, and whose probation I'm not allowed to extend any more  
4 as an officer of this court because he is not a suitable  
5 person to be on probation.  
6

7 Now, with that sort of challenging statement of where  
8 I think I come out, you may tell me where you think I would  
9 come out.

10 MR. CURLEY: This I found to be a very strange  
11 case when I first saw the six specifications and tried to  
12 find out about the background. It seemed rather hopeless.  
13 Then yesterday I became very optimistic and I'm sure my  
14 argument was anticipated. We have had sort of a reversal  
15 today. If I understand the conclusion that the Court has  
16 reached, we have various incidents in Spring Valley which  
17 have been brought to the attention of the police in that  
18 jurisdiction and they have a District Attorney and an  
19 office in that jurisdiction, et cetera.

20 Based upon their knowledge of these individuals,  
21 Mrs. Middleton and Mr. Bell --

22 THE COURT: I have already told you about that.  
23 I am aware that that area, whether it can be called  
24 a ghetto or not -- but the fact is that the police let  
25 these people cut each other and beat each other up without



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mchr

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prosecuting anybody is not of moment to me. That is why I held a live hearing. They don't run the probation office and they don't make decisions on what people can be left out on probation on the judgment of this court, and I am just not going to be impressed with what the police saw fit to do or not to do on these occasions concerning which I have had live testimony.

MR. CURLEY: I know, your Honor, and the Courts have held they are not bound by the reasoning or actions taken or not taken by the local police. I think that recently the opinion of the Circuit Court in the La Bell case, the appeal from the writ -- what I am saying is that there are times -- and I don't know whether it goes to that area in Rockland County, where the officials may be closer to the facts, while the fact finding on this hearing is your Honor's province and I should be allowed to argue and develop the position that if they who are closest to the facts and have evaluated Mrs. Middleton and have not proceeded to take any action other than as Mr. Tyne has made the statement to the Court, by issuing a summons to Mr. Bell, that that should carry some weight. I am afraid that perhaps under the lax position of Mr. Tyne and Mrs. Lynch and her social worker this man and woman have been living a type of life that to some extent has been

1  
2 improper and can be frowned on. We don't condone slashings  
3 or the destruction of one another's property. I believe  
4 in the confines of what has been presented to your Honor  
5 as to whether Mr. Bell has violated his probation, the  
6 government had failed to establish that he has done so.  
7 If there are open cases in the Rockland County Courts the  
8 government or, in that jurisdiction, the District Attorney  
9 would have the burden of proving beyond a reasonable doubt --

14 10 THE COURT: Mr. Curley, he got on the stand  
11 and swore that he beat her up on or about April 19, 1974.  
12 I know he had a splendid reason for that, she slashed his  
13 tires, but that doesn't defeat this specification.

14 MR. CURLEY: The term "beat her up," I think  
15 encompasses a little more than what he was admitting to.  
16 He said that he may have hit her and he had a tussle with her,  
17 he struggled with her. He may or may not have had a  
18 piece of wood.

19 THE COURT: He may or may not have knocked her down.

20 MR. CURLEY: That is correct.

21 THE COURT: So it is whether or not he knocked  
22 some woman down on some day when she slashed his tires.  
23 I don't know what we are fighting about.

24 MR. CURLEY: Wouldn't a jury in Rockland County  
25 be the one to discuss this in their deliberations, that is,



the emotional impact, the argument in the heat of passion. They may very well find in his favor, and I am not in any way condoning his action.

THE COURT: I find on his own testimony, which I don't fully believe, but as it supports hers, that he was correctly charged by the clear and overwhelming evidence on specification No. 1. I don't know what difference it makes what a jury would say about that. That is what I say about it, and I don't see any two ways about it.



U.S. AIR FORCE  
SEP 4 1975  
RECEIVED  
AIRMAN



